

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FRENETTE LUBIN, ET ANO.,	:	
	:	
Plaintiffs,	:	<u>ORDER</u>
	:	
-against-	:	06-CV-6637 (BMC)
	:	
MAX SHALOM, ET AL.,	:	
	:	
Defendants.	:	
	:	
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COGAN, District Judge.

Plaintiffs' motion to compel [30] is granted; defendants' motion for a protective order is denied. Defendants make no showing that the documents are not responsive or calculated to lead to admissible evidence and therefore have the burden of showing that they are privileged. Defendants have failed to meet that burden. They have failed to demonstrate that either they or the documents are covered by the FCRA or any other provision of law prohibiting production. As importantly, they offer no explanation as to why these documents were not located, identified, and logged so that this issue could be determined prior to plaintiffs undertaking substantial discovery without knowledge of the documents' existence.

Defendants are therefore ORDERED to produce the subject documents forthwith pursuant to a Confidentiality Stipulation, to be so ordered by the Court, that may provide for the redaction or truncation of social security and credit card numbers. Defendant 264 Realty LLC shall reimburse plaintiffs' reasonable attorneys' fees in making this application and in taking any supplemental discovery required by the documents'

production up to the amount of \$2000. Defendant Steven Apuzzi LLC is excused from the attorneys' fees provision of this Order based on its representation that it no longer has possession of the responsive documents. However, if it turned over the responsive documents to 264 Realty after it was on notice of plaintiffs' claims, then both of these defendants shall be responsible for one-half of plaintiffs' reasonable attorneys' fees.

SO ORDERED.

s/Brian M. Cogan

U.S.D.J.

Dated: Brooklyn, New York
June 22, 2007